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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: D. PARKER *ET AL.* ART UNIT: 3736

SERIAL NO.: 09/743,206

EXAMINER: MATTHEW J. KREMER

FILED: MARCH 15, 2002

CONFIRMATION NO.: 7267

TITLE: NON-INVASIVE MEASUREMENT OF BLOOD ANALYTES

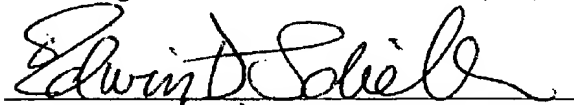
REPLY TO SUPPLEMENTAL NOTICE OF ALLOWANCE

Mail Stop Issue Fees
Hon. Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In reply to the Supplemental Notice of Allowance, dated December 6, 2005, in which the Examiner acknowledged receipt of Applicants' Information Disclosure Statement, filed April 14, 2005, but expressly refused to consider the information referred to therein on the ground that the IDS fee set forth in 37 C.F.R. §1.17(p) was not included,

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as First Class Mail addressed to: Hon. Commissioner for Patents, United States Patent and Trademark Office, P. O. Box 1450, Alexandria, Virginia 22313-1450, and being faxed to the Examiner at: (571)273-8300.


Edwin D. Schindler, Reg. No. 31,459

December 12, 2005
Date

Applicants respectfully request that the Examiner now consider the content of the Information Disclosure Statement that the Examiner had previously refused to consider and respectfully state that:

(1) The references listed in the Information Disclosure Statement only first became known to Applicants as part of the International Search Report issued on January 31, 2005, for a corresponding P.C.T. application and, because the references were cited less than three months prior to the filing of the Information Disclosure Statement on April 14, 2005, and because the Information Disclosure Statement included a proper "certification" in accordance with 37 C.F.R. §1.97(e)(1), the IDS filing fee under 37 C.F.R. §1.17(p) was not required to be remitted; or, *in the alternative*,

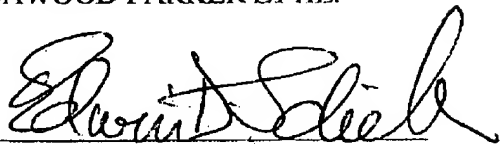
(2) The Issue Fee Transmittal, which accompanied the Information Disclosure Statement and the required Issue Fee paid on April 14, 2005, included (and still includes) authorization to charge the Deposit Account of Applicants' Attorney for any required fee(s) not otherwise provided and, while Applicants submit that the IDS filing fee under 37 C.F.R. §1.17(p) was not required because of the inclusion of a proper certification under 37 C.F.R. §1.97(e)(1), the Examiner did have the option (and still does) of charging the IDS filing fee otherwise required by 37 C.F.R. §1.17(p) to Applicants' Attorney's Deposit Account so that a timely consideration of the information referred to in the Information Disclosure Statement could be considered (and leaving Applicants with the option of later requesting that the PTO issue a refund of the IDS filing fee.)

Applicants therefore respectfully submit that the Examiner erred when he refused to consider the merits of Applicants' Information Disclosure Statement, filed April 14,

2005, either because the IDS filing fee under 37 C.F.R. §1.17(p) was not required or because, if the IDS filing fee was required, it could have been charged to Applicants' Attorney's Deposit Account. Accordingly, Applicants respectfully request that the Examiner now consider, on the merits, the information contained in their Information Disclosure Statement, filed April 14, 2005. Such favorable consideration by the Examiner is respectfully requested and earnestly solicited.

Respectfully submitted,

DAWOOD PARKER *ET AL.*

By 
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December 12, 2005

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (Account No. 19-0450) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.